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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 ARTURO TORRES OCHOA,

Case No. 3:13-cv-00420-MMD-WGC

10 Plaintiff,

ORDER

11 v.

12 RENEE BAKER, et al.,

13 Defendant.  
14

15 Plaintiff Arturo Torres Ochoa, who is in the custody of the Nevada Department of  
16 Corrections, has submitted an application to proceed *in forma pauperis* (dkt. no. 1)  
17 seeking to initiate a civil rights action.

18 The pauper application is incomplete. Both a financial certificate properly  
19 completed and executed by an authorized institutional officer and a statement of the  
20 plaintiff's inmate trust fund account for the past six months are required by 28 U.S.C. §  
21 1915(a)(2) and Local Rule LSR1-2. Plaintiff — a frequent filer who repeatedly has been  
22 informed of these requirements — attached neither.

23 It does not appear from review of the allegations presented that a dismissal  
24 without prejudice of the present improperly-commenced action would lead to a  
25 promptly-filed new action being untimely or otherwise result in substantial prejudice.

26 The Court notes in this regard that plaintiff has filed numerous meritless, frivolous  
27 and/or delusional actions in this district. As a result, the Court has found plaintiff subject  
28 to the "three strikes" provisions of 28 U.S.C. § 1915(g) in 3:10-cv-00483-ECR-VPC (dkt.

1 no. 7). Under § 1915(g), a prisoner who has brought three or more frivolous or  
2 meritless actions may not proceed *in forma pauperis*; and he instead must pay the full  
3 filing fee in advance, unless he is under imminent danger of serious physical injury.

4 Plaintiff alleges in the present complaint that his food is being poisoned. This  
5 allegation of imminent danger, however, is delusional or frivolous. Plaintiff has made  
6 the same allegation in a number of actions. See, e.g., 3:12-cv-00285-MMD-VPC; 3:12-  
7 cv-00276-HDM-VPC; 3:12-cv-00239-RCJ-VPC. The Court held a hearing on the  
8 allegation in 3:12-cv-00239-RCJ-VPC and confirmed that the allegation indeed is wholly  
9 baseless.


10 Plaintiff accordingly will sustain no substantial prejudice from the dismissal of this  
11 improperly commenced action without prejudice.

12 IT IS THEREFORE ORDERED that the application to proceed *in forma pauperis*  
13 (dkt. no. 1) is DENIED and that this action shall be DISMISSED without prejudice to the  
14 filing of a new complaint on the required form in a new action together with either a new  
15 pauper application with all required, and new, attachments or payment of the \$350.00  
16 filing fee.

17 The Clerk of Court shall send plaintiff a copy of the papers that he filed along with  
18 the complaint and pauper forms and instructions for both forms.

19 The Clerk shall enter final judgment accordingly, dismissing this action without  
20 prejudice.

21 DATED THIS 13<sup>th</sup> day of August 2013.

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23   
24 MIRANDA M. DU  
25 UNITED STATES DISTRICT JUDGE  
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